

Message Text

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ACTION L-03

INFO OCT-01 IO-13 ISO-00 SSO-00 NSCE-00 ICAE-00 INRE-00
SP-02 AID-05 EB-08 TRSE-00 SS-15 STR-07 OMB-01
CEA-01 H-01 CIAE-00 INR-10 NSAE-00 COME-00 DODE-00
JUSE-00 NEA-10 EUR-12 /089 W
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O 271447Z JUL 78
FM USMISSION GENEVA
TO AMEMBASSY NEW DELHI IMMEDIATE
INFO SECSTATE WASHDC 2591
USMISSION USUN NEW YORK

C O N F I D E N T I A L SECTION 01 OF 02 GENEVA 11564

E.O. 11652: GDS
TAGS: EGEN, EINV, ECOSOC, UN
SUBJECT: US ILLICIT PAYMENTS INITIATIVE AT ECOSOC

REF: (A) NEW DELHI 10716, (B) STATE 168316,
(C) STATE 168317

1. INDIAN DEL MADE A STATEMENT IN FIRST COMMITTEE
YESTERDAY ON QUESTION OF CONVENING A CONFERENCE ON
ILLICIT PAYMENTS STATING THAT INSUFFICIENT PROGRESS
HAD OCCURRED IN THE WORKING GROUP TO WARRANT CONVENING
A CONFERENCE, AND THAT PROGRESS ON THE BRIBERY TREATY
WAS LINKED TO PROGRESS ON THE CODE OF CONDUCT FOR TRANS-
NATIONAL CORPORATIONS NEGOTIATIONS.

2. WE DEFER TO YOUR VIEWS WHETHER IT WOULD BE USEFUL
TO RAISE THE MATTER FURTHER WITH GHOSE OR OTHER APPRO-
PRIATE GOI OFFICIALS, BUT G-77 SUPPORT FOR US-CANADIAN
RESOLUTION (BEING CABLED SEPTTEL) IS CRUCIAL TO OUR
ILLICIT PAYMENTS INITIATIVE, AND ANY SUPPORT THAT CAN
BE DEVELOPED IN THAT GROUP MAY BE KEY. WE EXPECT
FINAL ACTION MAY NOT COME UNTIL NEXT WEEK. FURTHER
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INFORMATION AND TALKING POINTS ARE PROVIDED.

3. ON THE POINT RAISED BY GHOSE CONCERNING THE
COMMISSION ON TRANSNATIONAL CORPORATIONS, THE ECOSOC
WORKING GROUP'S MANDATE REQUIRED IT TO SUBMIT A REPORT
TO THE 4TH SESSION OF THE COMMISSION, WHICH MET IN
VIENNA LAST MAY. THE PURPOSE OF THIS WAS SIMPLY TO KEEP

THE COMMISSION INFORMED OF THE PROGRESS OF THE WORKING GROUP AND NOT FOR PURPOSES OF COORDINATION WITH THE CODE. THE WORKING GROUP'S REPORT WAS ENDORSED BY THE COMMISSION AT THE 4TH SESSION, AS REFLECTED IN THE FINAL REPORT OF THE COMMISSION'S SESSION. WE CONTINUE TO REGARD THE ILLICIT PAYMENTS TREATY AND THE TNC CODE AS SEPARATE INDEPENDENT PROJECTS, TO BE TREATED AS SUCH, AND ARE NOT PREPARED TO LINK THE TWO TOGETHER. (MANY G-77 DELS WISH TO DO THIS, BELIEVING IT WILL SPEED UP WORK ON THE TNC CODE.)

4. AS INDICATED REF B, ECOSOC WORKING GROUP ON CORRUPT PRACTICES HAS MADE GOOD PROGRESS IN DEVELOPING AN AGREEMENT ON ILLICIT PAYMENTS AND RECOMMENDED THAT ECOSOC RECONSIDER THE QUESTION OF CONVENING A DIPLOMATIC CONFERENCE TO ADOPT AN AGREEMENT "WITH A VIEW TOWARDS SETTING AN EARLY DATE FOR A CONFERENCE". THIS IS A MUCH STRONGER RECOMMENDATION THAN PREVIOUS ONES BY THE WORKING GROUP. WE BELIEVE IT IS IMPORTANT TO SET A DATE NOW FOR THE CONFERENCE IN VIEW OF DEGREE OF PROGRESS REACHED AND TO RETAIN MOMENTUM. OPPONENTS OF US INITIATIVE HOPE THAT BY EXTENDING PREPARATORY WORK WITHOUT SCHEDULING A CONFERENCE THEY MAY BE ABLE TO AVOID AN EVENTUAL AGREEMENT, OR FOR PROPONENTS OF LINKAGE TO TNC CODE, IN ORDER TO OBTAIN A FINAL AGREEMENT ON THE CODE.

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5. THE FOLLOWING POINTS MAY BE DRAWN UPON AS APPROPRIATE:

-- THE US STRONGLY BELIEVES THAT AN INTERNATIONAL AGREEMENT TO DETER AND PUNISH ILLICIT PAYMENTS IN CONNECTION WITH INTERNATIONAL COMMERCIAL TRANSACTIONS BY NATIONAL MEASURES AND INTERNATIONAL COOPERATION IS IN THE INTERESTS OF BOTH DEVELOPED AND DEVELOPING COUNTRIES. BRIBERY IS PARTICULARLY DAMAGING TO INTERESTS OF DEVELOPING COUNTRIES AS IT RAISES THE COSTS OF GOODS AND SERVICES NECESSARY FOR DEVELOPMENT AND CAN RESULT IN THE ACQUISITION OF INFERIOR PRODUCTS, PROGRAMS OR FACILITIES. THE PROPOSED TREATY WOULD REQUIRE HOME COUNTRIES TO TAKE NEW ACTIONS INCLUDING CRIMINALIZATION OF BRIBERY OF FOREIGN OFFICIALS COMMITTED OVERSEAS BY THEIR NATIONALS.

-- THE US PROPOSAL FOR AN INTERNATIONAL AGREEMENT ON ILLICIT PAYMENTS IS OF STRONG PERSONAL INTEREST TO PRESIDENT CARTER.

-- THE WORKING GROUP'S PROGRESS HAS BEEN ENDORSED

BY THE CENTER FOR TRANSNATIONAL CORPORATIONS AND THE
WORKING GROUP HAS AGREED ON A STRONG RECOMMENDATION
CONVENING A CONFERENCE AT AN EARLY DATE.

-- THE US HAS CONSISTENTLY AGREED THAT THESE
NEGOTIATIONS SHOULD IN NO WAY INTERFERE WITH WORK ON
A CODE OF CONDUCT FOR TNCs AND WE SEE NO CONFLICT
BETWEEN THE TWO. THERE IS A BROAD CONSENSUS ON
THE SUBSTANCE OF AN AGREEMENT (CRIMINALIZATION,
EXTRADITION, AND JUDICIAL ASSISTANCE) AND THERE IS NO
REASON TO DELAY HOLDING A DIPLOMATIC CONFERENCE. WE
ARE PREPARED TO CONTINUE TO WORK HARD TOWARD SUCCESSFUL

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C O N F I D E N T I A L SECTION 02 OF 02 GENEVA 11564

CONCLUSION OF THE NEGOTIATIONS OF THE CODE OF CONDUCT
BUT IN VIEW OF THE SUBSTANTIAL WORK THAT REMAINS,
FURTHER DELAY OF AN AGREEMENT ON ILLICIT PAYMENTS WOULD
MERELY PLAY INTO THE HANDS OF THOSE WHO DO NOT WISH TO
SEE SUCH ACTION AGAINST CORRUPTION. INSISTANCE ON
COMPREHENSIVE LINKAGES CAN RESULT IN DAMAGING PROSPECTS
FOR INTERNATIONAL COOPERATION ON SPECIFIC ITEMS OF
AGREEMENT.

VANDEN HEUVEL

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